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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DUMONTRAE M. BUTLER,

Plaintiff,

vs.

ANDREW SAUL,
Commissioner of Social Security,

Defendant.

Case No.: 2:20-CV-00948-BNW

**UNOPPOSED MOTION FOR EXTENSION OF
TIME TO FILE CERTIFIED
ADMINISTRATIVE RECORD AND ANSWER;
DECLARATIONS OF JEBBY RASPUTNIS AND
CHRISTIANNE VOEGELE**

(SECOND REQUEST)

1 Defendant, Andrew Saul, Commissioner of Social Security (the “Commissioner”), by and through
2 his undersigned attorneys, hereby moves for a sixty-day extension of time to file the Certified
3 Administrative Record (CAR) and answer to Plaintiff’s Complaint. The CAR and answer to Plaintiff’s
4 Complaint are due to be filed by December 18, 2020. This is the Commissioner’s second request for an
5 extension. The following provides the Court with an updated status of the agency’s ability to prepare
6 CARs.
7

8 In light of the global COVID-19 pandemic, the Social Security Administration (“SSA” or the
9 “Agency”) has taken the unprecedented step of suspending in-office services to the public:
10 <https://www.ssa.gov/coronavirus/>. The Agency is focusing on providing the most critical services by
11 mail, phone and online to those most in need. SSA is also taking additional steps to protect its employees
12 and help stop the spread of COVID-19, maximizing social distancing, including significantly limiting
13 employee access to SSA facilities for health and safety only and has moved toward a temporary virtual
14 work environment. Electronic processes allow some of SSA’s most critical work to continue with
15 minimal interruption; other workloads have been suspended until the health crisis abates or the Agency is
16 able to create new electronic business processes.
17

18 For purposes of this particular case, the public health emergency pandemic has significantly
19 impacted operations in the Social Security Administration’s Office of Appellate Operations (OAO) in
20 Falls Church, Virginia. That office is responsible for physically producing the administrative record that
21 is required to adjudicate the case under Sections 205(g) and (h) of the Social Security Act, 42 U.S.C.
22 § 405(g) and (h). *See* SSA Program Operations Manual System GN 03106.025, *available at*
23 <https://secure.ssa.gov/apps10/poms.nsf/lnx/0203106025>.
24

25 As detailed in the attached declarations, beginning March 16, 2020, OAO’s staff members began
26 to telework to protect employee health and prevent further spread of COVID-19. At that time, critical in-

1 person physical tasks associated with preparing the administrative record could not be accomplished. For
2 example, prior to the COVID-19 pandemic, to safeguard Personally Identifiable Information (PII), all
3 hearing recordings, which are part of the administrative record, were downloaded onto compact discs and
4 encrypted. OAO securely routed the encrypted discs to a private contractor through a daily pickup and
5 delivery service at the Official Duty Station (ODS) in Falls Church, Virginia. The private contractor
6 would transcribe the hearing recording and send the paper copy of the hearing transcript back to OAO.
7 OAO personnel would then scan the hearing transcript into the electronic record or place the hearing
8 transcript in the paper case file. Thereafter, OAO personnel would assemble the administrative record in
9 a prescribed order.
10

11 To ensure a continuity of operations, OAO has been actively pursuing mitigation efforts to allow
12 the remote preparation of administrative records. For cases in which the private contractors were already
13 in possession of hearing recordings for transcription, with the assistance of the Office of Acquisitions and
14 Grants (OAG), OAO received approval to receive these transcripts from the private contractors via
15 secured email, e.g., using password protection and redacted Social Security Numbers. In April 2020,
16 OAO began receiving such hearing transcripts from private contractors via secured email.
17

18 For cases in which OAO had not yet submitted recordings to the private contractors before March
19 16, 2020, OAO has been pursuing all available options to obtain transcriptions for these cases. In May
20 2020, OAO began encrypting hearing recordings and securely emailing them to the contractors for
21 transcription. Through the month of May, OAO and the contractors worked to resolve technical issues
22 that arose, particularly with large files. The process is functioning now, albeit at only half of normal
23 productivity.
24

25 Given the volume of pending cases, Defendant requests an extension in which to respond to the
26 Complaint until February 16, 2021.

1 On December 16, 2020, the undersigned conferred with Plaintiff's Counsel, who has no objection
2 to the requested extension.

3 It is therefore respectfully requested that Defendant be granted an extension of time to file the CAR
4 and answer to Plaintiff's Complaint, through and including February 16, 2021.

5
6
7 Dated: December 18, 2020

Respectfully submitted,

8 NICHOLAS A. TRUTANICH
9 United States Attorney

10 /s/ Marcelo Illarmo
11 MARCELO ILLARMO
12 Special Assistant United States Attorney

13
14
15 ORDER

16 IT IS SO ORDERED

17 DATED: 4:38 pm, December 22, 2020

18 

19 BRENDA WEKSLER
20 UNITED STATES MAGISTRATE JUDGE
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